



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 29, 2012

Mr. John A. Peralta  
Assistant County Attorney  
Liberty County Attorney's Office  
P.O. Box 9127  
Liberty, Texas 77575

OR2012-03169

Dear Mr. Peralta:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 447212.

The Liberty County Sheriff's Office (the "sheriff") received a request for eight categories of information pertaining to two named individuals and the Special Crimes/Crime Suppression Unit, including the K-9 Unit. You state some of the requested information does not exist.<sup>1</sup> You also state you will provide some of the requested information to the requestor. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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<sup>1</sup>We note the Act does not require a governmental body to disclose information that did not exist at the time the request was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Initially, we must address the sheriff's argument that portions of the request require the sheriff to answer questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We assume the sheriff has made a good faith effort to do so.

Section 552.108(b)(1) of the Government Code excepts from required public disclosure an internal record of a law enforcement agency maintained for internal use in matters relating to law enforcement or prosecution if "release of the internal record or notation would interfere with law enforcement or prosecution." Gov't Code § 552.108(b)(1). A governmental body that seeks to withhold information under section 552.108(b)(1) must sufficiently explain how and why the release of the information would interfere with law enforcement and crime prevention. *See id.* § 552.301(e)(1)(A); *City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws); Open Records Decision Nos. 562 at 10 (1990), 531 at 2 (1989). You state the release of the submitted information would interfere with law enforcement by informing the general public of the total number of officers in the unit, the identities of those officers, and how many officers are on duty at a time. You argue this information would enable persons to more effectively carry out their criminal activities. Upon review, we find the sheriff has demonstrated release of some of the submitted information would interfere with law enforcement or crime prevention. Therefore, we conclude the sheriff may withhold the information we have marked under section 552.108(b)(1) of the Government Code. However, the remaining information at issue documents the number of hours an individual worked during a specified pay period. You have not established how this information reveals law enforcement techniques, nor have you explained how release of this information might compromise the security or operations of the sheriff. Thus, after considering your arguments, we find you have failed to explain how or why release of this information would interfere with law enforcement or crime prevention. Accordingly, the sheriff may not withhold the remaining information under section 552.108(b)(1). As you raise no further exceptions to disclosure, this information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php),

or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Casterline", with a long horizontal flourish extending to the right.

Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/ag

Ref: ID# 447212

Enc. Submitted documents

c: Requestor  
(w/o enclosures)